

2632

PTO/SB/21 (10-08)

Approved for use through 11/30/2008. OMB 0651-0031
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

TRANSMITTAL FORM (to be used for all correspondence after initial filing)	Application Number	09/767,496
	Filing Date	January 24, 2001
	First Named Inventor	Franciscus Theodorus Cornelis GEERTS
	Art Unit	2632
	Examiner Name	Anh V. La
Total Number of Pages in This Submission	Attorney Docket Number	04132.0096.PCUS00

ENCLOSURES (Check all that apply)		
<input type="checkbox"/> Fee Transmittal Form <input type="checkbox"/> Fee Attached <input type="checkbox"/> Amendment/Reply <input type="checkbox"/> After Final <input type="checkbox"/> Affidavits/declaration(s) <input type="checkbox"/> Extension of Time Request <input type="checkbox"/> Express Abandonment Request <input type="checkbox"/> Information Disclosure Statement <input type="checkbox"/> Certified Copy of Priority Document(s) <input type="checkbox"/> Reply to Missing Parts/Incomplete Application <input type="checkbox"/> Reply to Missing Parts under 37 CFR 1.52 or 1.53	<input type="checkbox"/> Drawing(s) <input type="checkbox"/> Licensing-related Papers <input type="checkbox"/> Petition <input type="checkbox"/> Petition to Convert to a Provisional Application <input type="checkbox"/> Power of Attorney, Revocation Change of Correspondence Address <input type="checkbox"/> Terminal Disclaimer <input type="checkbox"/> Request for Refund <input type="checkbox"/> CD, Number of CD(s) _____ <input type="checkbox"/> Landscape Table on CD	<input type="checkbox"/> After Allowance Communication to TC <input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences <input type="checkbox"/> Appeal Communication to TC (Appeal Notice, Brief, Reply Brief) <input type="checkbox"/> Proprietary Information <input type="checkbox"/> Status Letter <input checked="" type="checkbox"/> Other Enclosure(s) (please identify below): Renewed Petition and Return Postcard
<div>Remarks</div>		
SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT		
Firm Name	Howey LLP	
Signature		
Printed name	Michael J. Bell	
Date	November 12, 2008	Reg. No. 39,604

CERTIFICATE OF TRANSMISSION/MAILING			
I hereby certify that this correspondence is being facsimile transmitted to the USPTO or deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on the date shown below:			
Signature			
Typed or printed name		Date	

This collection of information is required by 37 CFR 1.5. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to 2 hours to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

American LegalNet, Inc.
www.FormsWorkflow.com



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of:

Franciscus Theodorus Cornelis GEERTS

Appl. No. 09/767,496

Filed: January 24, 2001

For: **A VEHICLE FOR DETERMINING THE
CLIMATE**

Confirmation No. 2695

Art Unit: 2632

Examiner: La, Anh V.

Atty. Docket: 04132.0096.PCUS00

RENEWED PETITION UNDER 37 C.F.R. 1.137(b)

Attention: Office of Petitions
Mail Stop **Petition**
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

On March 4, 2008, a Petition for Revival of the above-referenced application was filed. The Decision of Petition mailed September 15, 2008, DISMISSED the petition alleging that the statement of unintentional delay was deficient. Pursuant to 37 C.F.R. § 1.137(e), Petitioner requests reconsideration of its Petition for Revival.

In particular, on March 4, 2008, Petitioner filed a Petition to Revive under 37 C.F.R. § 1.137(b). This Petition included the requisite fee, the requisite Response, a Declaration in Support of Petition to Revive from Mr. Michael Bell, the current attorney of record, regarding the unintentional delay from the time that he was made aware of it by the present assignee, and a Declaration in Support of Petition to Revive from Mr. Frans J.A. de Groen, representative of the Assignee, regarding the unintentional delay from the due date of the required reply to the outstanding Office Action. A Revocation of Power of Attorney and New Power of Attorney and Change of Correspondence Address was filed on April 23, 2008.

The Petition to Revive was dismissed allegedly on the grounds that the delay was not satisfactorily shown to be unintentional for the periods of (1) the delay in reply that originally resulted in the abandonment, and (2) the delay in filing an initial petition pursuant to 37 C.F.R. §

1.137(b) to revive the application. Petitioner believes that sufficient evidence that the entire delay was unintentional was provided with the Petition filed on March 4, 2008. Prior counsel for Petitioner, Mr. Penrose Albright, is deceased and is not available to execute documents attesting to the unintentional abandonment and delay in filing a petition to revive. However, Petitioner filed a Declaration in Support of Petition to Revive from Mr. de Groen, representing the Assignee of record, along with a Declaration from Petitioner's present counsel, Mr. Bell. The facts in these declarations sufficiently establishing that the delay was unintentional under 37 C.F.R. § 1.137(b).

Submitted herewith are the Renewed Petition to revive of the above-referenced application, including, (A) a copy of the Petition to Revive under 37 C.F.R. § 1.137(b) filed on March 4, 2008, which included the Declaration of Mr. Bell, Declaration in Support of Petition to Revive, including Statement of Unintentional Delay and signed by the Assignee of Record, and a copy of the Response to Office Action; (B) correspondence Petitioner to Mr. Albright dated June 5, 2003; (C) status inquiry correspondence from Petitioner to Mr. Albright dated November 24, 2005; (D) correspondence from Mr. Albright to Petitioner dated December 2, 2005; (E) status inquiry correspondence from Petitioner to Mr. Albright dated March 8, 2007.

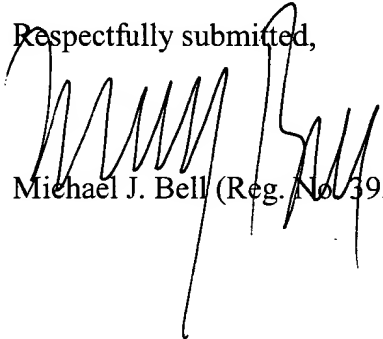
As to delay period (1), Petitioner's prior counsel, Mr. Albright, filed a Notice of Appeal to an outstanding Office Action on April 23, 2003, before the deadline of response. See Paragraph 9 of March 4, 2008 Declaration of Mr. Bell in Exhibit A ("Bell Declaration"). In a correspondence dated June 5, 2003, Petitioner requested a Request for Continued Examination to be filed. See Exhibit B, June 5, 2003 correspondence from Petitioner to Mr. Albright. A Request for Continued Examination was never filed and the case went abandoned without Petitioner's knowledge. See Paragraph 4 of March 3, 2008 Declaration of Mr. de Groen's declaration in Exhibit A ("de Groen Declaration"). A Notice of Abandonment was issued on July 13, 2004. There is no record of the Notice of Abandonment being forward to Petitioner. See paragraph 11 of Bell Declaration. Petitioner never intended to allow the application to go abandoned. Accordingly, Petitioner has sufficiently shown pursuant to 37 C.F.R. § 1.137(b) that the delay in the reply to avoid abandonment was unintentional.

As to the delay period (2), Petitioner, believing the application to be in good standing, sent a status inquiry correspondence to Mr. Albright on November 24, 2005. See Exhibit C, November 24, 2005 correspondence from Petitioner to Mr. Albright. In a reply dated December 2, 2005, Mr. Albright informed Petitioner that he would be filing a Petition to Revive the application. See Exhibit D, December 5, 2005 correspondence from Mr. Albright to Petitioner. Thus, Petitioner believed that a petition had been filed to revive the application. Another status inquiry correspondence from Petitioner was sent to Mr. Albright on March 8, 2007. See Exhibit E, March 8, 2007 correspondence from Petitioner to Mr. Albright. Mr. Albright never responded to this inquiry.

Petitioner, having relied on Mr. Albright's promise to file a petition, did not discover that a petition had not been filed until after Mr. Albright's death. The files for the application were picked up from Mr. Albright's son on February 4, 2008 and received by Mr. Bell on February 8, 2008. See Paragraphs 6-7 of Bell Declaration. After the files had been transferred, it was discovered that, contrary to what Petitioner had been led to believe, prior counsel had not filed a Petition to Revive. See Paragraph 18 of Bell Declaration. After this discovery, due diligence was taken to file the Petition to Revive as soon as possible. Accordingly, Petitioner has sufficiently shown pursuant to 37 C.F.R. § 1.137(b) that the period of delay between discovery of abandonment and the filing of the petition was unintentional.

Petitioner believes that the Petition to Revive filed on March 4, 2008, including the Bell Declaration and de Groen Declaration, was sufficient to show that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 C.F.R. § 1.137(b) was unintentional. Additionally, Petitioner has included Exhibits B-E as further evidence in support of the petition. Thus, Petitioner respectfully requests that the dismissal be reconsidered and this Renewed Petition be granted.

Respectfully submitted,



Michael J. Bell (Reg. No. 39,604)

Date: November 12, 2008

HOWREY LLP
2941 Fairview Park Drive, Box 7
Falls Church, VA 22042
(703) 663-3600